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| 10/705,523 | 11/10/2003 | Martin Hans | 10191/2479B | 4852 |
| 26646 | 7590 | 12/04/2008 | EXAMINER | |
| KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004 | | | LAM, DUNG LE | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

Applicant's arguments filed 10/27/08 have been fully considered but they are not persuasive.

Claim 16. A method of assigning transmission channels in a telecommunications network having a plurality of base stations and a plurality of mobile stations, the transmission channels being provided for transmitting signals between the plurality of base stations and the plurality of mobile stations, the method comprising:

(1st) in an uncoordinated operation of the base stations for establishing a connection between one of the base stations and one of the mobile stations, including assigning an uplink and a downlink transmission channel for the transmission of signals between the one of the base stations and the one of the mobile stations;

(2nd) whereby said one of the base stations and said one of the mobile stations each perform a channel measurement on all possible transmission channels to determine whether such transmission channels are below a pre-selected value for connection quality and said uplink and downlink transmission channels are assigned based on said measurement, and thereafter said one of the base stations and said one of the mobile stations repeatedly re-measure all of the possible transmission channels not previously used to determine whether such transmission channels are below a pre-selected value for connection quality.

Applicant argues that the measuring of the SIR does not correspond to the channel quality measurement of the claim because this SIR value measurement is performed only after the connection has been established.

The examiner respectfully disagrees. There is no specific requirement set in the claim that requires that the step of measuring all the channels has to occur prior to a connection establishment.

The limitations that followed the word "whereby" do not specifically indicate that they must occur after the first limitation of the first paragraph. The examiner notes that this whereby clause is also not a positively recited limitation either, which makes it

optional. Nonetheless, the examiner did address the limitations from the “whereby” clause.

As for the order of occurrence, the first limitation of assigning the uplink and downlink channels could be broadly interpreted to occur first and then the step of measuring channels occurs afterward. This is a logical interpretation because it is well known to establish a connection by assigning a channel first. Then the channels are measured again and again to make sure the best signal quality channels can be assigned.

Thus with the current claim, the first paragraph could be interpreted as assigning the channels and then the second paragraph, the channels are then measured and assigned periodically and then the whole procedure is repeated.

Applicant further argues that there is no independent assignment of the uplink a downlink channel. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., independent assignment of the uplink a downlink channel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant further argues that there is no connection established. The examiner respectfully disagrees. The claim is calling for a step of establishing a connection which includes the assigning of the uplink channels and downlink. The examiner interpret this limitation as the establishing of a connection is defined to be the step of assigning the

uplink and downlink channels. Chuang clearly teaches the assignment of uplink and downlink channels and thus clearly fulfill the requirement of the first limitation.

Lastly, applicant argues that the “it is an off-line process and is explicitly distinguished over the real-time radio access.” The examiner respectfully disagrees. Column 11 line 65 to Column 12 line 7 states that “it maybe performed on a regular basis to account for changing topological conditions...time slot assignment also occurs in real-time as part of the link access protocol.”

Thus, the rejection is maintained based on the above reasons. Applicant is invited to positively define all the steps along with specific sequence of occurrence and what is meant by uncoordinated to distinguish the claimed invention with the prior art.

/Dung Lam/

Examiner, Art Unit 2617

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617